

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARIA F. FRIERE,

Plaintiff,

v.

TRADEQUIP SERVICES AND
MARINE, INC. AND ROBERTO
E. RINCON, INDIVIDUALLY,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____

PLAINTIFF'S ORIGINAL COMPLAINT

SUMMARY OF SUIT

1. Tradequip Services and Marine, Inc. (the "Company") is a marine services company located in Houston, Texas. The Company did not pay its non-exempt employee, Maria Friere, time-and-one-half overtime wages for all hours she worked over forty (40) per workweek. Rather, Friere was simply paid a weekly salary regardless of the total number of hours she worked.

2. Accordingly, Maria Friere ("Plaintiff") brings this action against the Company and its owner, Roberto E. Rincon, individually, to recover all unpaid overtime wages, liquidated damages, and attorneys' fees owed to her.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction under 29 U.S.C. § 216(b) (2010) and 28 U.S.C. § 1331 and § 1367 (2010).

4. Plaintiff brings this complaint in the district in which the Company does business and where a substantial portion of the conduct charged herein occurred. As such, venue is proper in this district pursuant to 28 U.S.C. § 1391(b) (2010).

THE PARTIES

5. Plaintiff was employed by the Company within the meaning of the FLSA during the three (3) year period preceding the filing of this Complaint. In performing her duties for the Company as a bookkeeper, reconciling the Company's accounts payable and accounts receivable, Plaintiff engaged in commerce or in the production of goods for commerce.

6. Tradequip Services and Marine, Inc. is an enterprise engaged in commerce or the production of goods for commerce and has acted, directly or indirectly, in the interest of an employer with respect to Plaintiff. The Company may be served with process by serving its registered agent for service of process, Jose R. Rincon, at 283 Lockhaven Dr., Suite 308, Houston Texas, 77073.

7. Defendant Roberto E. Rincon ("Rincon") is an individual engaged in commerce or the production of goods for commerce. Rincon has acted, directly or indirectly, in the interest of an employer with respect to Plaintiff. Rincon is personally liable for the violations of the Fair Labor Standards Act (the "FLSA") by the Company. Rincon may be served with process by serving him at his place of business, 283 Lockhaven Dr., Suite 308, Houston Texas,

77073.

BACKGROUND

8. The Company is in the business of wholesaling oilfield, mining and marine equipment.

9. Rincon has a substantial ownership and financial interest in the Company, and is directly involved in:

- a. the hiring and firing of the Company's employees;
- b. the day-to-day operations of the Company as they relate to defining the terms of employment, workplace conditions, and the level of compensation to be received by the Company's employees;
- c. the Company's finances; and
- d. corporate decisions.

10. Plaintiff, whose primary duty involved handling accounts payable and accounts receivable for the Company, regularly worked in excess of forty (40) hours per week, and was improperly classified by the Company as "exempt" for purposes of overtime compensation. As such, she was not paid at one and one-half times her regular rate for hours worked in excess of forty (40) hours each workweek. Instead, the Company paid Plaintiff a salary.

CAUSE OF ACTION

Failure to Pay Overtime Compensation

11. Plaintiff worked more than forty (40) hours per week but was not compensated for her overtime hours at one and one-half times her regular hourly rate.

12. As a non-exempt employee, Plaintiff was entitled to be paid time-and-one-half for all hours worked in excess of forty (40) hours in a workweek. 29 U.S.C. § 207(a) (2010). Accordingly, the Company's practice of failing to pay Plaintiff overtime compensation is a clear violation of the FLSA.

13. No exemption excuses the Company from paying Plaintiff time-and-one-half for hours worked over forty (40) hours. Nor has the Company made a good faith effort to comply with the FLSA. Instead, the Company knowingly, wilfully, or with reckless disregard carried out its illegal pattern or practice regarding overtime compensation with respect to Plaintiff.

14. Accordingly, Plaintiff is entitled to overtime pay in an amount which is one and one-half times her appropriate regular rate of pay.

15. Additionally, Plaintiff is entitled to an amount equal to all her unpaid overtime wages as liquidated damages.

16. Finally, Plaintiff is entitled to reasonable attorneys' fees and costs of this action. 29 U.S.C. § 216(b) (2010).

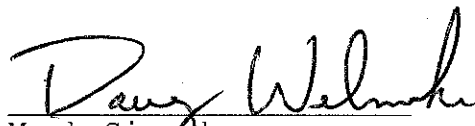
PRAYER

WHEREFORE, Plaintiff Maria F. Freire requests that this Court award her judgment, jointly and severally, against Defendants Tradequip Services and Marine, Inc. and Roberto E. Rincon for:

- a. damages for the full amount of her unpaid overtime compensation;

- b. an amount equal to her unpaid overtime compensation as liquidated damages;
- c. reasonable attorneys' fees, costs and expenses of this action;
- d. pre-judgment interest and post-judgment interest at the highest rates allowable by law; and
- e. such other and further relief as may be allowed by law.

Respectfully submitted,



Mark Siurek
TBA# 18447900
Fed ID# 9417
3334 Richmond Ave, Suite 100
Houston, Texas 77098
713-522-0066 (telephone)
713-522-9977 (fax)
msiurek@warrensiurek.com

ATTORNEY-IN-CHARGE FOR
PLAINTIFF

OF COUNSEL:

WARREN & SIUREK, L.L.P.
Patricia Haylon
TBA# 09281925
Fed ID# 13941
3334 Richmond Ave, Suite 100
Houston, Texas 77098
713-522-0066 (telephone)
713-522-9977 (fax)
thaylon@warrensiurek.com

Law Office of Douglas Welmaker
Douglas B. Welmaker
TBA# 00788641
Fed. ID# 17038
3334 Richmond Ave, Suite 100
Houston, Texas 77098
713-522-0066 (telephone)
713-522-9977 (fax)
dwelmaker@warrensiurek.com